

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

HFC INVESTMENTS, LLC, et al.,

Appellants,

v.

VALLEY VIEW STATE BANK d/b/a VALLEY VIEW BANK, et al.,

Respondents.

DOCKET NUMBER WD72962 Consolidated with WD73071

Date: February 21, 2012

Appeal from:
Jackson County Circuit Court
The Honorable Jay A. Daugherty, Judge

Appellate Judges:
Division One: Victor C. Howard, PJ., Alok Ahuja and Karen King Mitchell, JJ

Attorneys:
John M. Duggan and Deron A. Anliker, Overland Park, KS, for appellant.
Thomas M. Martin, Kansas City, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

COURT OF APPEALS -- WESTERN DISTRICT

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In May 2009, appellants HFC Investments, LLC, and BEO5 Investments, LLC (collectively “HFC”) entered into an agreement with Valley View State Bank and 95th Street Service Corporation (collectively “Valley View”), which provided for the transfer of title to real estate in Johnson County, Kansas from HFC to Valley View. The agreement also provided HFC with an option to repurchase the property under specified circumstances.

HFC alleges that Valley View wrongfully denied it the right to exercise its repurchase option. On April 14, 2010, HFC sued Valley View in the Circuit Court of Jackson County. Its fourteen-count petition sought money damages and declaratory relief concerning its entry into the May 2009 agreement, and Valley View’s failure to perform the repurchase option thereunder.

Valley View filed a motion to dismiss, arguing that the trial court lacked jurisdiction under § 508.030, RSMo, which provides that “[s]uits for the possession of real estate, or whereby the title thereto may be affected, or for the enforcement of the lien of any special tax bill thereon, shall be brought in the county where such real estate, or some part thereof, is situated.” The trial court granted the motion, and HFC appeals.

AFFIRMED.

Division One Holds:

Section 508.030 applies to actions which seek to directly affect title to real property. In Counts III and IV of its petition, HFC seeks a declaration “that the May 2009 Agreement and deeds executed as a part thereof are not binding on [HFC] and are null and void,” or are “void and voidable.” These counts plainly seek relief affecting title to real property, and are subject to § 508.030; the fact that those counts also seek the invalidation of the agreement pursuant to which the deeds were executed, and are joined with other counts seeking monetary relief, does not exempt them from § 508.030.

HFC argues that, even if Counts III and IV are subject to dismissal under § 508.030, the trial court should have severed those counts and dismissed them without prejudice, and allowed HFC to pursue its money-damages claims in Jackson County. HFC argues that this result is required by *Skatoff v. Alfend*, 411 S.W.2d 169, 172 (Mo. 1967). HFC did not make this argument below, however, and it is therefore not preserved for appeal. Even if preserved, however, *Skatoff* only ordered severance where the claim subject to § 508.030 was “a separate and severable action” from the other claim asserted in that case. Counts III and IV are not “separate and severable” from HFC’s money-damages claims in this case, however; instead, all of HFC’s claims arise from the same underlying transaction (in which the May 2009 Agreement and associated deeds were executed). Because HFC is not entitled to split its cause of action between separate lawsuits, the trial court could not have severed its claims, even though certain of its claims seek to invalidate the agreement and deeds, while others seek damages for Valley View’s alleged breach of the agreement.

Before: Division One: Victor C. Howard, PJ., Alok Ahuja and Karen King Mitchell, JJ

Opinion by: Alok Ahuja, Judge

February 21, 2012

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